

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

ELIZABETH BONNIE AKERLEY,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Case No. 2:05-cv-314
	:	
NORTH COUNTRY STONE, INC., JOHN	:	
BYORS, RACHEL BYORS, VERMONT	:	
MARBLE INVESTORS GROUP, INC.,	:	
VERMONT MARBLE INTERNATIONAL, LLC,	:	
BARNEY MARBLE COMPANY, INC.	:	
and RICHARD HEARN,	:	
	:	
Defendants.	:	

MEMORANDUM and ORDER of JUDGMENT

Plaintiff Elizabeth Bonnie Akerley has applied to the Court for a default judgment against Defendants North Country Stone, Inc., John Byors, Rachel Byors, Vermont Marble Investors Group, Inc., and Vermont Marble Investors, LLC ("Byors defendants"). Akerley's complaint was filed November 29, 2005, and served on the Byors defendants on December 5, 2005. Akerley brought seventeen¹ claims against the Byors defendants, including violations of state and federal securities laws and, in the alternative, various statutory and common law causes of action.

The Byors defendants failed to plead or otherwise defend the suit, and an entry of default was docketed February 6, 2006. Defendant Richard Hearn was dismissed by stipulation on October 26, 2007. Following a three-day bench trial on April 27 through

¹ Akerley abandoned a civil RICO claim against the Byors defendants.

29, 2009, judgment was entered for the remaining defendant, Barney Marble, Inc., and against Akerley. Akerley's renewed motion for judgment against the Byors defendants was filed September 24, 2009.

Based upon the well-pleaded allegations in the complaint and the evidence received at the trial of the claims against Barney Marble, Inc., the Court finds that the Byors defendants engaged in a continuing fraud upon Akerley over an extended length of time and induced her to lend funds which were misappropriated by and for the benefit of the Byors defendants. Akerley received notes totaling \$565,000.00 in exchange for loans to one or more of the Byors defendants.² She received \$32,000.00 as principal and interest on the notes.

Accordingly, JUDGMENT IS HEREBY ENTERED for Plaintiff Elizabeth Bonnie Akerley and against Defendants North Country Stone, Inc., John Byors, Rachel Byors, Vermont Marble Investors Group, Inc., and Vermont Marble International, LLC, jointly and

² The dates of issuance and amounts of each note are listed below:

1/17/2003	\$ 50,000.00
1/17/2003	\$ 30,000.00
2/14/2003	\$ 25,000.00
3/19/2003	\$ 15,000.00
6/05/2003	\$ 30,000.00
8/21/2003	\$ 15,000.00
1/26/2004	\$325,000.00
2/20/2004	\$ 50,000.00
3/05/2004	\$ 25,000.00

severally, in the amount of \$545,000.00 (representing principal of \$565,000.00 less \$20,000.00 repaid against the first note) under Counts One through Nine and Eleven through Eighteen of the Complaint; plus prejudgment interest at the Vermont statutory rate of twelve percent per annum (less \$12,000.00 credit for interest repaid on the first note); plus costs. Reasonable attorneys' fees in the amount of \$151,449.76 are awarded. The Court declines to award exemplary or punitive damages.

Dated at Burlington, Vermont this 23rd day of October, 2009.

/s/ William K. Sessions III

William K. Sessions III
Chief Judge

The effective post-judgment interest rate is: .36%

JUDGMENT ENTERED ON DOCKET
DATE: 10/23/2009